

**REMARKS**

Applicants appreciate the thoroughness with which the Examiner has examined the above-identified application. Reconsideration is requested in view of the amendments above and the remarks below.

**First rejection under 35 USC § 112, first paragraph**

Claims 2-9 stand rejected under 35 USC § 112, first paragraph, for non-enablement. Specifically, the Examiner has stated that the specification does not recite the sequential order of coating slurries of the powders recited in claim 2, namely,  $\text{LaSrMnO}_3$ ,  $\text{LaSrMnO}_3$ , + YSZ, and  $\text{LaSrCoFeO}_3$ .

Applicants agree that the order of powders at page 22, lines 20-22 is different from the sequence of powders in claim 2. However, this portion of page 22 does not state that the order is applied in the sequence that the powders compositions are recited. On the other hand, the order of the powders given earlier in the specification at page 22, lines 11-12 agrees with the order of claim 2. To conform the specification to the order of powders given in originally filed claim 2, and with the order given in the originally filed specification at page 22, lines 11-12, applicants have amended the specification to restate the order of the powders on page 22, lines 20-22. No new matter has been added.

In view of the above, applicants submit that the first rejection of claims 2-9 under 35 USC § 112, first paragraph, is now obviated.

**Second rejection under 35 USC § 112, first paragraph**

Claims 2-9 stand rejected under 35 USC § 112, first paragraph, for non-enablement. Specifically, the Examiner has stated that, in claim 2, the percentages of

the  $\text{LaSrMnO}_3$ , + YSZ mixture adds up to more than 100%. With respect to the Examiner's reference to the "second layer with a YSZ component of 46 – 50%" (Office Action, p.3), applicants presume that the Examiner meant 20 – 50%, as in the claim.

In the "sequentially coating" step of claim 2, the phrase "slurry containing the mixed powder of  $\text{LaSrMnO}_3$  and 20 to 50 wt% YSZ" is simply meant to refer back to the "mixed powder of  $\text{LaSrMnO}_3$  and 20 to 50 wt% YSZ " for antecedent basis in the previous "mixing" step. As such, the "20 to 50 wt% YSZ" in the "sequentially coating" step is not meant to be added again. So that there is no confusion, the phrase "20 to 50 wt% YSZ" has been deleted from the "sequentially coating" step in claim 2, and the paragraph beginning at page 22, line 20 of the specification has been clarified. No new matter has been added.

In view of the above, applicants submit that the second rejection of claims 2-9 under 35 USC § 112, first paragraph, is now obviated.

### **Rejection under 35 USC § 103**

Claims 2-9 stand rejected under 35 USC § 103 as being obvious from the publication "Fabrication and Characteristics of Anode-Supported Flat-Tube Solid Oxide Fuel Cell," by Kim et al., *Journal of Power Sources*, published May 7, 2003 (the "Kim et al. Publication"), in view of Pham U.S. Patent Publication No. 2005/0037252, Singh U.S. Patent No. 5,516,597 and Kotchick U.S. Patent No. 4,913,982. Applicants respectfully traverse this rejection.

The Kim et al. Publication was co-authored by the three named inventors of the present application, R. Song, D. Shin and J. Kim, along with three other individuals, K. Song, S. Hyun and H. Yokokawa. The latter three additional authors did not invent the

subject matter in the Kim et al. Publication that is being cited against the present application - they are listed as co-authors for contributions to the publication other than the cited disclosure.

Accordingly, applicants are enclosing a declaration under 37 CFR § 1.132 by the co-inventors R. Song, D. Shin and J. Kim attesting to the fact that they are the actual co-inventors of the invention of the present application, and that the additional co-authors of the Kim et al. Publication, K. Song, S. Hyun and H. Yokokawa, are not co-inventors of the claimed subject matter of the present application, and that they are listed as co-authors for contributions to the Kim et al. Publication other than the subject matter disclosed and claimed in the above-identified application. In view of the enclosed declaration that establishes that the common subject matter of the cited reference is by the same inventive entity as the instant application, applicants respectfully submit that the Kim et al. Publication is not properly a reference against the instant application under 35 USC §§ 102 or 103. MPEP §§ 715.01(c) and 716.10, *In re Katz*, 687 F.2d 450, 215, USPQ 14, 18 (CCPA 1982).

Since the Kim et al. Publication is the primary reference cited against claims 2-9, and since the remaining references Pham, Singh and Kotchick do not render the subject matter of claims 2-9 obvious to one of ordinary skill in the art, applicants submit that claims 2-9 are patentable under 35 USC § 103.

It is respectfully submitted that the application has now been brought into a

condition where allowance of the entire case is proper. Reconsideration and issuance of a notice of allowance are respectfully solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'P. W. Peterson', written over a horizontal line.

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